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10 **BEFORE THE**
BOARD OF REGISTERED NURSING
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12
13 In the Matter of the Accusation Against:

Case No.

2010-583

14 **LYNN MARIE DALEY**
3126 Kodiak Street
15 Antioch, CA 94531
16 Registered Nurse License No. 502839

A C C U S A T I O N

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., R.N. (Complainant) brings this Accusation solely in her
22 official capacity as the Interim Executive Officer of the Board of Registered Nursing.

23 2. On or about August 26, 1994, the Board of Registered Nursing, Department of
24 Consumer Affairs, issued Registered Nurse License Number 502839 to Lynn Marie Daley
25 (Respondent). The Registered Nurse License was in full force and effect at all times relevant to
26 the charges brought here and will expire on August 31, 2010, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing, Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

STATUTORY PROVISIONS

6. Section 2761 of the Code states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct.

...

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof

7. Section 2762 of the Code provides, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

...

(b) Use alcoholic beverages to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public.

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1 (c) Be convicted of a criminal offense involving the consumption of any of the substances
2 described in subdivisions (a) and (b) of this section, in which event the record of the conviction is
3 conclusive evidence thereof.

4 8. Section 490 of the Code provides, in pertinent part, that a Board may suspend or
5 revoke a license on the ground that the licensee has been convicted of a crime substantially
6 related to the qualifications, functions, or duties of the business or profession for which the
7 license was issued.

8 COST RECOVERY

9 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
10 administrative law judge to direct a licentiate found to have committed a violation or violations of
11 the license act to pay a sum not to exceed the reasonable costs of the investigation and
12 enforcement of the case.

13 **FIRST CAUSE FOR DISCIPLINE**

14 **(Unprofessional Conduct/Use of Alcohol)**

15 10. Respondent has subjected her license to disciplinary action under section 2761(a) on
16 the grounds of unprofessional conduct as defined in 2762(b) in that on or about May 27, 2007,
17 she drove a vehicle while under the influence of an alcoholic beverage, collided with an overhead
18 traffic signal pole, and left the scene of the accident. The arresting officer obtained breath
19 samples which showed that respondent had a blood alcohol content of 0.24 % and 0.26 % (three
20 times the legal limit).

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Conviction of a Crime)**

23 11. Respondent has subjected her license to disciplinary action under Code sections
24 2761(f) and 490 in that on or about March 5, 2008, she was convicted by the court on her plea of
25 no contest of a violation of Vehicle Code section 23103 (alcohol related wet reckless driving) in
26 Contra Costa County Superior Court, Case Number 01-132831-9, entitled *People v. Lynn Marie*
27 *Daley*. The circumstances of the crime are set forth in paragraph 10, above.

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